

Opinion No. [30-33]

March 31, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: C. R. Brice, Roberts, Brice & Sanchez, Salmon Building, Santa Fe, New Mexico.

INTOXICATING LIQUORS -- Bringing in from another state -- 72-102 Code 1929.

OPINION

Reference is made to yours of the 28th inst. in which you request an opinion from this office as to the construction of section 72-102, Compilation of 1929, as applicable to the statement of facts contained in your letter, that is, a resident of New Mexico has in her possession in California intoxicating liquors in a private home that were possessed prior to 1920 and so legally possessed under the United States statute and the laws of California. She wishes to move these liquors to her home in Santa Fe, New Mexico, and has the authority of the United States Government for the transportation of them to Santa Fe, New Mexico.

Section 72-102, Compilation of 1929, to which you refer, makes it unlawful for any person to "transport into this state" or "import" intoxicating liquors of any kind whatsoever, provided nothing in the section shall be held to apply to possession of intoxicating liquors in a private dwelling that were lawfully possessed prior to February 1, 1920, and legally certified to under the provisions of the United States Statutes.

It is noted that the proviso contained in this section does not cover transporting into the State or importing or transporting within the State, but only to possession of intoxicating liquors in a private dwelling and then only to such liquors as were lawfully possessed prior to February 1, 1920. Whether or not this applies only to such liquors as were lawfully possessed in New Mexico might become a moot question, but without expressing an opinion on that point, we are of the opinion that there is no provision made by which liquors may be transported from another state into this state without violating the provisions of section 72-102, Compilation 1929.